IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

W.P.NO.1813 OF 2006

Harpreet Singh Dua ..Petitioner

Vs.

The Bombay Municipal Corporation ..Respondents

...

Mr.Niranjan Pandit with Mr.Hemant Sethi for Petitioner

Mrs.P.A.Purandhare Adv. for Respondent

...

CORAM: F.I.REBELLO AND SMT.V.K.TAHILRAMANI,JJ.

DATE : AUGUST 1,2006

P.C.

1. Rule. Heard forthwith.

2. The petitioner had commenced the business of restaurant in premises of their ownership. These are the premises situated in a society. Earlier the society has granted permission for amalgamation of two shops based on which the society granted permission. It appears that thereafter the society has withdrawn NOC for amalgamation, pursuant to which, the Corporation had withdrawn the licence

granted in favour of the petitioners.

3. As there were disputes between the parties, the petitioners approached under the provisions of the Maharashtra Co-Operative Societies Act by way of Case No.CC -IV/463/2004. By an interim order dated 12.8.2005 the Society has been restrained from interfering with the business of the petitioners.

4. The limited issue, therefore, for which we have been called upon is whether the petitioner can carry on business of restaurant in the two shops without being amalgamated. Admittedly, there is no legal bar. The only limited issue is, the petitioner will have to apply afresh to the Respondents according to law as the earlier permission granted was based on the amalgamated premises. In the light of that, the petitioner is required to apply afresh. If the application is made afresh, the Respondents will not insist for NOC from the society in view of the interim order passed and as referred to earlier. The Corporation then will consider the application according to law and dispose of the same at any rate not later than four weeks from today.

5. It is made clear that we have passed this order when there is no NOC in view of the interim order. Licence granted if any, by the Respondents, will be subject to the said order passed in the pending proceedings.

6. With the above observation, petition stands disposed of.

[F.I.REBELLO, J.]

[SMT.V.K.TAHILRAMANI,J.]